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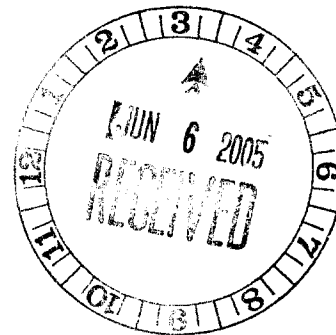
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June 6, 2005

FILED

June 6 - 2005

**SURFACE
TRANSPORTATION BOARD**



The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: STB Finance Docket No. 34709, Soo Line Railroad Company - Trackage Rights
Exemption - Norfolk Southern Railway - Between Detroit, MI and Chicago, IL

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten (10) copies of a Verified Notice of Exemption (the "Notice") filed by Soo Line Railroad Company ("Soo Line") pursuant to 49 C.F.R. § 1180.2(d)(7). Also enclosed, in accordance with 49 C.F.R. § 1180.6(a)(6), are twenty (20) unbound copies of the maps submitted as Exhibit 1 to the Notice, as well as a check in the amount of \$950.00 to pay the required filing fee. A disk containing an electronic version of the Notice is also enclosed.

Please acknowledge receipt of the Notice for filing by date-stamping the enclosed extra copies of the Notice and returning them to our messenger. If you have any questions, please contact the undersigned counsel.

Sincerely,

Terence M. Hynes
Terence M. Hynes

**ENTERED
Office of Proceedings**

JUN 7 - 2005

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Public Record**

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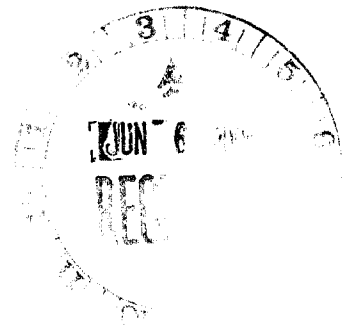
Enclosures

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**SURFACE
TRANSPORTATION BOARD**

214148



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 34709

**SOO LINE RAILROAD COMPANY
--TRACKAGE RIGHTS EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY--
BETWEEN DETROIT, MI AND CHICAGO, IL**

VERIFIED NOTICE OF EXEMPTION

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JUN 6 - 2005

**SURFACE
TRANSPORTATION BOARD**

**Terence M. Hynes
Gabriel S. Meyer
Sidley Austin Brown & Wood LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000
202) 736-8711 (fax)**

***Counsel for Soo Line Railroad
Company***

Dated: June 6, 2005

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 34709

**SOO LINE RAILROAD COMPANY
--TRACKAGE RIGHTS EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY--
BETWEEN DETROIT, MI AND CHICAGO, IL**

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. §§ 1180.2(d)(7) and 1180.4(g), Soo Line Railroad Company ("SOO") files this Verified Notice of Exemption (the "Notice") from prior approval requirements of 49 U.S.C. §§ 11323, *et seq.*, to permit SOO to acquire and exercise overhead trackage rights over approximately 260.8 miles of track owned and operated by Norfolk Southern Railway Company ("NSR") between Delray Interlocking in Detroit, Michigan, on the one hand, and certain points in Chicago, Illinois, on the other hand (as described more fully in Part B below). The trackage rights are based upon a written agreement and are not filed or sought in a responsive application to a rail consolidation proceeding. Accordingly, they are exempt from the prior approval requirements of 49 U.S.C. § 11323.

SOO files this Notice of Exemption in furtherance of the transaction, and submits the following information in support thereof, in accordance with the Board's regulations at 49 C.F.R. §§ 1180.4(g)(1)(i) and 1180.6:

Correspondence

The person to whom correspondence with respect to this Notice should be sent is:

Terence M. Hynes
Sidley Austin Brown & Wood LLP
1501 K Street, N.W.
Washington, DC 20005
Phone: 202 736-8000
Fax: 202 736-8711

Transaction Summary

The following is a summary of this transaction, its proposed timing, and the purpose of the transaction:

SOO is a Minnesota corporation whose business address and telephone number are:

Soo Line Railroad Company
501 Marquette Avenue South
Minneapolis, MN 55402
(800) 777-4499

SOO is a Class I rail carrier and a wholly-owned subsidiary of Canadian Pacific Railway Company ("CPRC"). CPRC, in conjunction with SOO and Delaware and Hudson Railway Company, Inc. ("D&H"), operates a 14,000-mile railroad network in Canada and the United States.

The carrier that owns and operates the rail lines that are the subject of this Notice is NSR, a Virginia corporation, whose business address and telephone number are:

Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510
(757) 629-2600

Under the proposed transaction, SOO will acquire overhead trackage rights over the following NSR rail lines between Delray Interlocking in Detroit, Michigan, on the one hand, and certain points in Chicago, Illinois, on the other hand:

1. between Delray Interlocking in Detroit, MI at Milepost $4.4 \pm$ of the Detroit District ("Delray Tower"), on the one hand, and the point of connection of the new 1982 foot (0.37 mile) long Butler Connecting Track at Milepost D113.65 \pm of NSR's Huntingdon District Line, on the other hand; and
2. between the point of connection of the Butler Connecting Track at Milepost D113.65 \pm of NSR's Huntingdon District Line and the point of connection of the Butler Connecting Track with NSR's Chicago Line at Milepost CD358.56 \pm ; and
3. between the point of connection of the Butler Connecting Track with NSR's Chicago Line at Milepost CD358.56 \pm , on the one hand, and one of the following two points in Chicago, IL, on the other hand: (i) CP-502 at Milepost 502.8 \pm and (ii) CP 509 at Milepost 509.7 \pm , a total distance of 253.9 miles (in the case of CP-502) and 260.8 miles (in the case of CP-509).

The three segments are non-separable portions of a single unified route over which the subject trackage rights are granted. It shall be determined on a train-by-train basis whether SOO trains operate over the route via CP-502 or via CP-509, pursuant to the procedures and protocols set forth in the parties' agreement (attached hereto as Exhibit 2).

SOO service under the trackage rights that are the subject of this Notice will commence on a date (the "Commencement Date") mutually agreed in writing between SOO and NSR, which shall not occur until the latest of (i) the date upon which construction of the Butler Connecting Track is completed; (ii) the effective date of any required Board authorization or exemption of the trackage rights granted to SOO herein (including compliance with any condition(s) imposed by the STB in connection with this Notice) and (iii) the expiration of any required labor notices.

Applicant's Location

SOO and its affiliates, CPRC and D&H, operate in the States of Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, North Dakota, Pennsylvania, South Dakota, and Wisconsin, and in the District of Columbia, as well as the

Canadian Provinces of Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan.

Map

Pursuant to 49 CFR § 1180.6(a)(6), a map depicting the trackage rights that are the subject of this Notice, and a system map showing the lines of SOO, CPR and D&H in relation to the lines of NSR, are attached hereto as Exhibit 1.

Agreement

A copy of the agreement under which SOO will exercise the trackage rights that are the subject of this Notice (redacting confidential business terms) is attached hereto as Exhibit 2. Concurrently with this Notice, SOO has filed a Petition for Protective Order relating to the terms of the trackage rights agreement between SOO and NSR, as well as an unredacted version of the trackage rights agreement (filed under seal).

Labor Protection

Any employees who are adversely affected by the acquisition of the trackage rights that are the subject of this Notice are entitled to protection under the conditions imposed in *Norfolk and Western Railway Co. —Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Railway, Inc.—Lease and Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

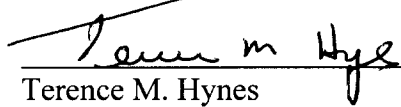
Environmental and Historical Reports

In accordance with 49 C.F.R. § 1105.6(c)(4), no environmental documentation is required in connection with the transaction that is the subject of this Notice. Likewise, in accordance with 49 C.F.R. § 1105.8(b)(3), no historical report is required in connection with the transaction that is the subject of this Notice.

Caption Summary

A caption summary suitable for publication in the Federal Register is attached hereto as Exhibit 3.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terence M. Hynes", is written over a horizontal line.

Terence M. Hynes

Gabriel S. Meyer

Sidley Austin Brown & Wood LLP

Washington, DC 20005

(202) 736-8000

(202) 736-8711 (fax)

Counsel for Soo Line Railroad Company

Dated: June 6, 2005

VERIFICATION

My name is Fred Green. I am President and Chief Executive Officer of Soo Line Railroad Company. I hereby certify that I am qualified and authorized to file this Verified Notice of Exemption on behalf of Soo Line Railroad Company. Further, I hereby verify, under penalty of perjury, that the facts set forth in the foregoing Verified Notice of Exemption are true and correct to the best of my knowledge and belief.

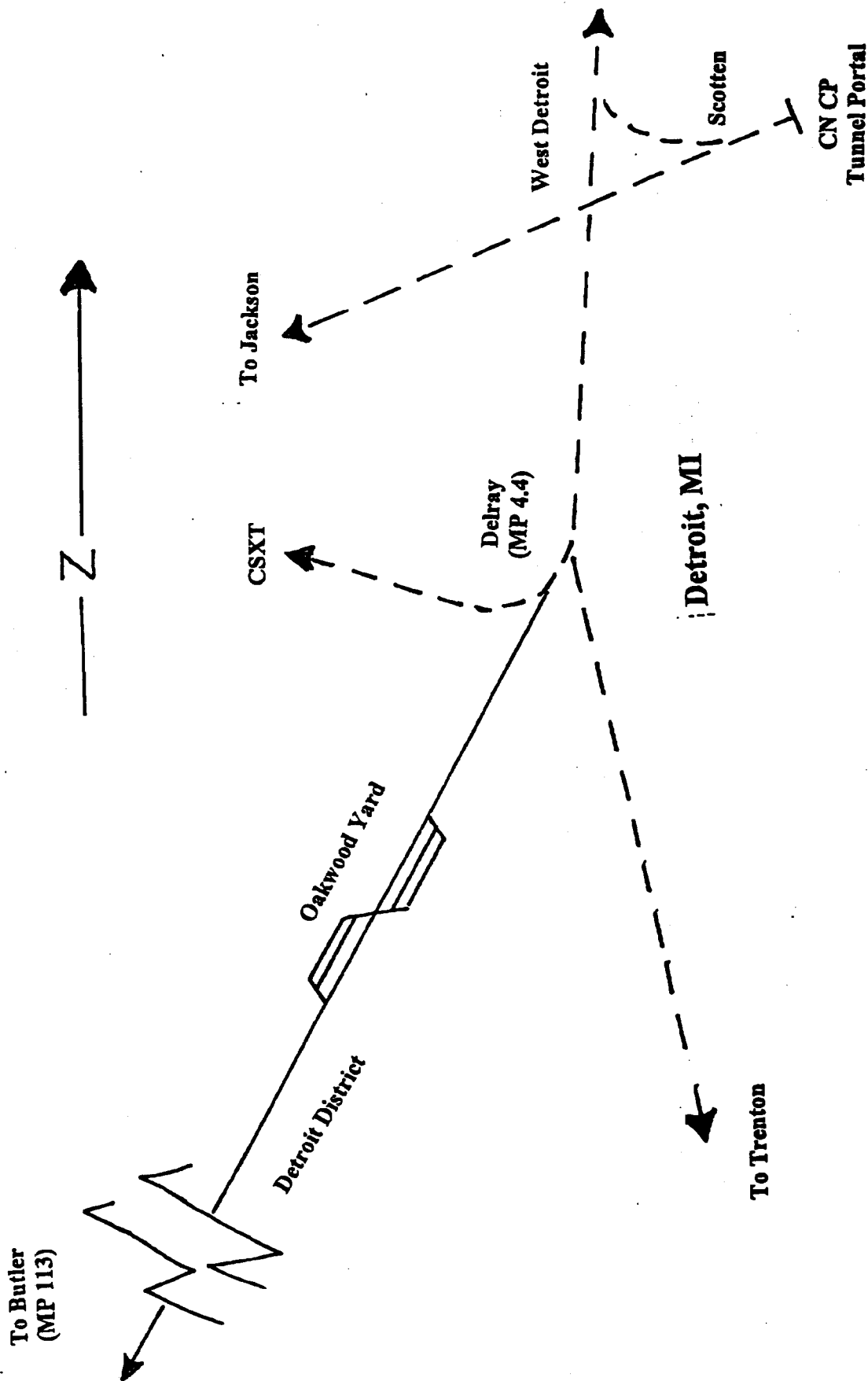


Fred Green
President and Chief Executive Officer
Soo Line Railroad Company

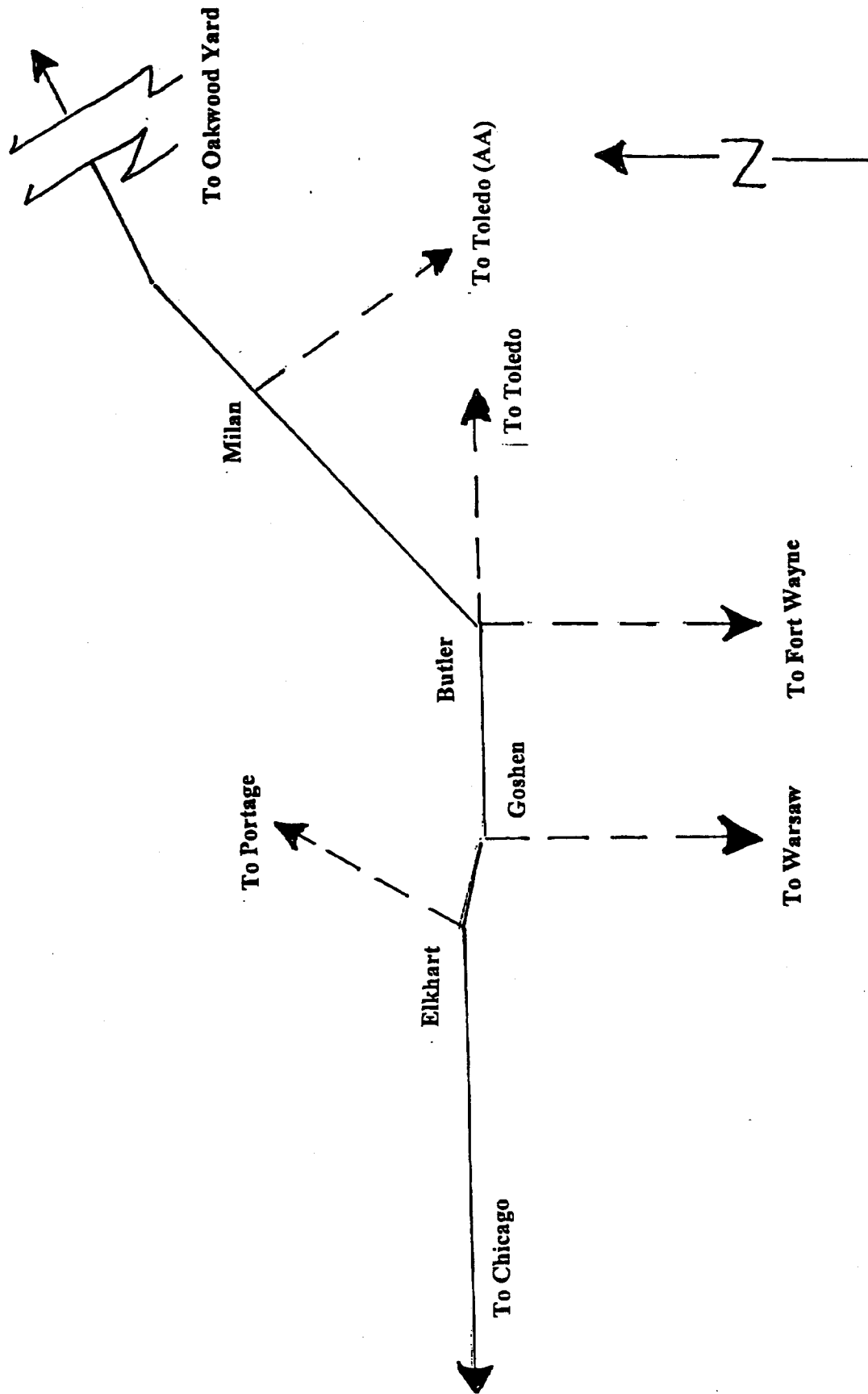
Dated: June 1, 2005

EXHIBIT 1

CPRS Trackage Rights over NSR Detroit, Michigan - Chicago, Illinois

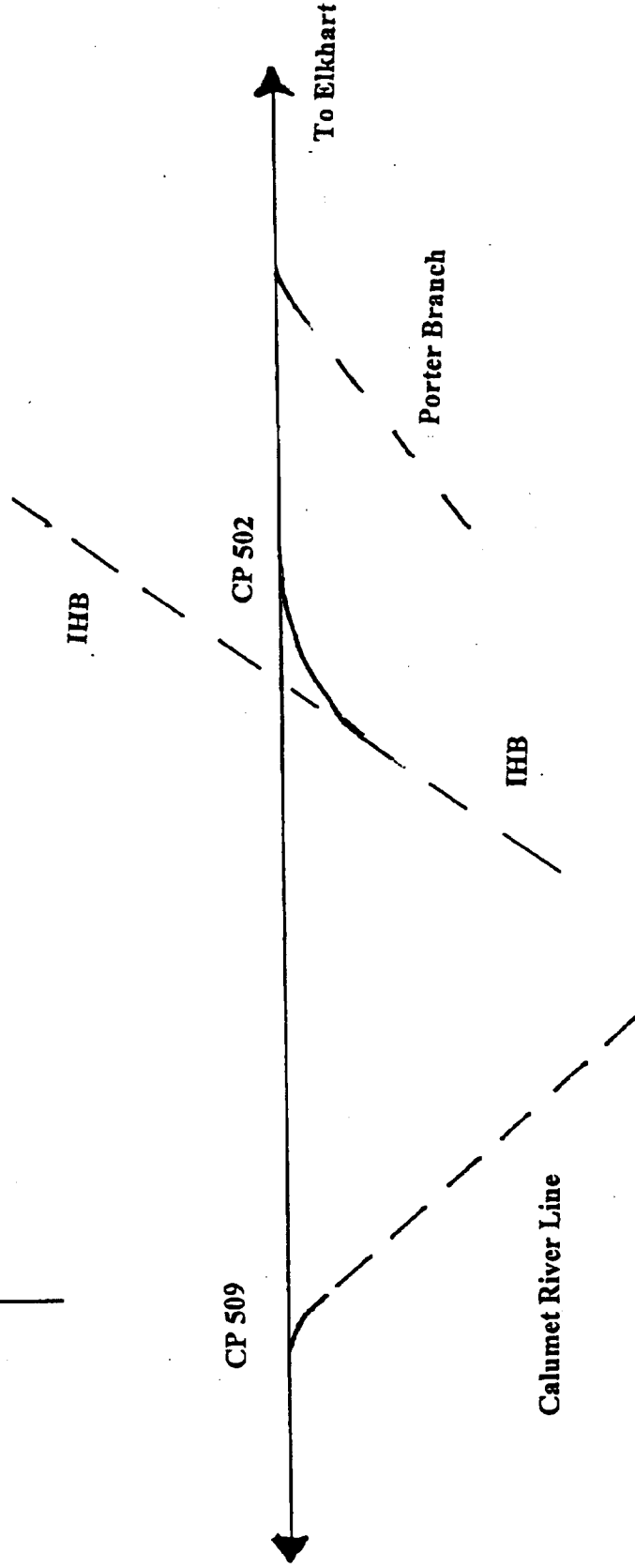
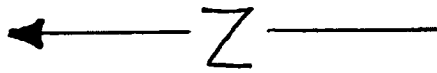


CPRS Trackage Rights over NSR Detroit, Michigan – Chicago, Illinois



Drawing Not to Scale

**CPRS Trackage Rights over NSR
Detroit, Michigan – Chicago, Illinois**



Chicago, IL

EXHIBIT 2

MICHIGAN TRACKAGE RIGHTS AGREEMENT

THIS TRACKAGE RIGHTS AGREEMENT ("Michigan Trackage Rights Agreement" or "Agreement") is made this 25th day of May, 2005 by and between SOO LINE RAILROAD COMPANY, a Minnesota corporation ("SOO"), and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation ("NSR"). SOO and NSR each are sometimes referred to hereinafter individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, NSR has agreed to grant to SOO, and SOO has agreed to acquire from NSR, trackage rights over certain of NSR's railroad lines between Delray Interlocking (Delray Tower) in Detroit, MI, on the one hand, and certain points on NSR's lines in Chicago, IL, on the other hand, as described in Section 1 of this Agreement; and

WHEREAS, the Parties desire to set forth the terms and conditions upon which NSR shall grant, and SOO shall exercise, such trackage rights;

NOW, THEREFORE, the Parties hereto, intending to be legally bound, agree as follows:

SECTION 1. GRANT OF TRACKAGE RIGHTS

(a) On the terms and subject to the conditions herein provided, NSR hereby grants to SOO the right to operate its trains, locomotives, cars and equipment with its own crews (such rights being referred to hereinafter as the "Subject Trackage Rights") over the following route on NSR railroad lines, all as shown in detail on Exhibit A to this Agreement:

(i) between Delray Interlocking in Detroit, MI at Milepost 4.4 \pm of the Detroit District ("Delray Tower"), on the one hand, and the point of connection of the new 1982 foot (0.37 mile) long Butler Connecting Track at Milepost D113.65 \pm of NSR's Huntingdon District Line, on the other hand (the "Detroit Segment"); and

(ii) between point of connection of the Butler Connecting Track at Milepost D113.65 \pm of NSR's Huntingdon District Line and the point of connection of the Butler Connecting Track with NSR's Chicago Line at Milepost CD358.56 \pm (the "Butler Segment"); and

(iii) between point of connection of the Butler Connecting Track with NSR's Chicago Line at Milepost CD358.56 \pm , on the one hand, and one of the following two points in Chicago, IL, on the other hand: (i) CP-502 at Milepost 502.8 \pm and (ii) CP 509 at Milepost 509.7 \pm (the "Chicago Segment"), a total distance of 253.9 miles (in the case of CP-502) and 260.8 miles (in the case of CP-509). The Detroit Segment, the Butler Segment and the Chicago Segment, which are referred to collectively hereinafter as the "Subject Trackage", are each non-separable segments of the single unified route over which the Subject Trackage Rights are granted. Delray Tower, CP-502 and CP-509 are referred to hereinafter as the "End Points".

SECTION 2. USE OF SUBJECT TRACKAGE

(a) SOO's use of Subject Trackage shall be in common with NSR, and NSR's right to use the Subject Trackage shall not be diminished by this Michigan Trackage Rights Agreement.

(b) SOO may operate trains in either direction over the Subject Trackage.

(c) SOO shall determine on a day-to-day, train-by-train, basis whether to enter and exit the Subject Trackage via CP-502 or CP-509 or such other End Point(s) in the vicinity of Chicago as may be permitted by this Michigan Trackage Rights Agreement. NSR shall use its best efforts to accommodate the routing specified by SOO for each SOO train.

(d) SOO shall advise NSR's designated operating officer of the intended routing for each SOO train in accordance with the operating protocols prescribed by the Services Standards Committee (as defined in Section 4(c)) from time to time. NSR's designated operating officer shall direct SOO, on a train-by-train basis, whether it should use the route via CP-502 or via CP-509; provided, that such instructions shall generally be consistent with the operating protocols prescribed by the Services Standards Committee. SOO shall have no claim against NSR for NSR's failure to accommodate SOO's requested routing, or for any delay to SOO train(s) caused by such failure or for any other claim arising out of an alleged breach of Section 2(c) or 2(d).

(e) SOO may use the trackage rights granted herein solely for the purposes of:

(i) subject to Section 16(c), the overhead movement of any commodity in the revenue waybill account of SOO or Canadian Pacific Railway Company ("CPRC") (SOO and CPRC are referred to collectively hereinafter as "CPR"); provided, that such traffic has both a prior and subsequent movement on CPR lines (including trackage rights held by CPR over other carriers): (A) east of, but not including, Detroit, MI; and (B) west of, but not including, CP-502 or CP-509 or such other End Point(s) in the vicinity of Chicago as may be permitted by this Michigan Trackage Rights Agreement, as applicable ("CPR Chicago-Detroit Traffic"); and

(ii) handling CPR Intermodal Traffic (as defined in Section 2(e)(ii)(B) herein) between a CPR Legacy Point (as defined in Section 2(e)(ii)(A) herein) and Livernois Yard in Detroit, MI (or Oak Yard, instead of Livernois Yard, should CPR make arrangements for continued operations at Oak Yard), moving by way of Chicago, and not interlined in the United States (directly or indirectly) with Union Pacific Railroad Company, Burlington Northern and Santa Fe Railway, CN, CSXT or any other carrier.

A. A "CPR Legacy Point" is a point located on CPRC or SOO, not including rail loading facilities in Anoka, Hennepin, Ramsey, Washington, Scott, Carver and Dakota Counties, MN, as those two railroads are physically configured (including both owned or leased lines and trackage rights) as of June 30, 2004.

B. "CPR Intermodal Traffic" is intermodal container or trailer traffic that does not contain finished autos or trucks.

(iii) handling CPR Intermodal Traffic between CPR Legacy Points and the proposed new public-private partnership Detroit Intermodal Freight Terminal (DIFT) or a similar future public/private consolidated Detroit-area rail facility handling intermodal traffic (container or trailer traffic) constructed instead of DIFT, regardless of whether that facility is located in Livernois Yard or otherwise; provided, however, that SOO's use of the Subject Trackage in conjunction with movements to or from such facility shall be subject to the terms and conditions governing the movement of CPR Intermodal Traffic set forth in this Michigan Trackage Rights Agreement; provided further that nothing herein shall be interpreted as requiring NSR to grant new rights in order to permit CPR to reach said terminal nor shall it be interpreted as specifying the terms and conditions of said rights if granted.

(f) SOO locomotives and crews operating over the Subject Trackage shall be equipped to communicate with NSR on radio frequencies normally used by NSR in directing train movements on the Subject Trackage.

(g) Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each carrier. SOO's operations over the Subject Trackage shall at all times be subject to the direction and control of the NSR operating officer in charge of the Subject Trackage and to applicable provisions of NSR's safety and operating rules.

(h) Before a SOO train enters the Subject Trackage, SOO shall confirm to NSR that the crew operating such SOO train has the ability to make a complete and continuous movement over the Subject Trackage either (i) to and beyond an End Point, or (ii) to a SOO crew relief point (in which case SOO shall also confirm that a relief crew will be available promptly upon arrival of such SOO train at the crew relief point).

(i) NSR shall use its best efforts to allow, at no charge to SOO, SOO operating (train and engine) crews to utilize NSR's personnel facilities at Elkhart, IN solely for changing crews on SOO trains moving over the Subject Trackage. If NSR's existing personnel facilities are not adequate to accommodate both NSR's and SOO's personnel, NSR shall permit SOO to construct or locate its own facilities for such purpose on or along the Subject Trackage at Elkhart, IN. In such event, SOO shall pay the cost to establish such facilities at Elkhart, IN, and NSR shall pay the cost of utilities provided to the facilities established by SOO.

(j) NSR shall provide SOO equal access to the NSR crew taxi services at Elkhart, IN, if that is possible under NSR's current contract for such services. If the provision of crew taxi services to SOO under NSR's current contract is not possible, NSR shall use its best efforts to obtain an amendment to its current contract to permit the provision of crew taxi services to SOO crews, and the incremental cost thereof shall be the responsibility of SOO. If NSR's current contract cannot be amended to permit the provision of crew taxi services to SOO, SOO may arrange for its own crew bus services at Elkhart, IN.

(k) SOO may set out cars bound to or from Canada ("Customs Cars") at NSR's Oakwood Yard in Detroit when United States Customs and Border Protection ("CBP") requires that such cars be held for (i) insufficient or incomplete documentation or (ii) inspection, and may pick up Customs Cars at Oakwood Yard upon their release by CBP. NSR may place Customs

Cars at such location in Oakwood Yard that is convenient pending customs clearance of the Customs Cars; provided that:

(i) where Customs Cars require physical inspection, NSR shall place such cars in a location suitable to CBP in Oakwood Yard;

(ii) where Customs Cars carrying intermodal units (containers or trailers) ("Intermodal Units") require physical inspection, NSR shall transfer such cars to Delray Intermodal Terminal, or such other location(s) in the Detroit area as may be designated by NSR in its discretion from time to time, and lift such Intermodal Units onto the ground at a location suitable to CBP in Delray Intermodal Terminal. If CBP requires that the contents of an Intermodal Unit be removed for inspection, NSR shall lift such Intermodal Unit onto a truck for transfer to an offsite location pursuant to arrangements paid for and made by SOO; and

(iii) should Customs Cars carrying Intermodal Units cause congestion at Oakwood Yard, NSR may transfer a sufficient number of such Customs Cars to Delray Intermodal Terminal to relieve such congestion.

NSR shall, if necessary, lift Intermodal Units onto Customs Cars at Delray Intermodal Terminal, and shall return Customs Cars from Delray Intermodal Terminal to Oakwood Yard, upon receiving notice from SOO that CBP has released such Customs Cars. NSR shall, upon receiving notice from SOO that CBP has released such Customs Cars, place such Customs Cars at a location in Oakwood Yard designated by NSR where SOO may switch such Customs Cars into SOO trains.

If NSR pursuant to section 2(k)(ii), at any time or from time to time, designates, in replacement of Delray Intermodal Terminal, a location or locations in the Detroit Area to which Customs Cars carrying Intermodal Units will be transferred for the purpose of CBP physical inspections or relieving congestion in Oakwood Yard, the Customs Lift Charge (as defined in section 5(c)(ii)) shall, if necessary, be amended to fully compensate NSR for the cost of each lift of an intermodal unit under this section 2(k), and such amended Customs Lift Charge shall thereafter be adjusted in accordance with the provisions of section 5(d).

SOO may also set out cars bound to Canada ("Misroute Cars") at NSR's Oakwood Yard in Detroit when such cars must be set off in Detroit from eastbound trains so as to prevent the cars from entering into Canada when such cars are misrouted from the United States to Canada. SOO may pick up Misroute Cars at Oakwood Yard when SOO has a westbound train available which the Misroute Cars may be switched into.

SECTION 3. RESTRICTIONS ON USE

(a) The Subject Trackage Rights are granted for the sole purpose of SOO using the Subject Trackage to operate its trains in overhead movements, with ingress and egress rights only at a Detroit-area End Point, on the one hand, and a Chicago-area End Point, on the other hand.

(b) SOO shall not have the right to enter or leave the Subject Trackage except at the End Points.

(c) SOO shall not perform any local freight service whatsoever at any point located on the Subject Trackage.

(d) SOO shall not interchange any traffic with any other carrier at any point on or along, or at the End Points of, the Subject Trackage.

(e) SOO shall not have the right to serve existing or future shippers at facilities located on or along, or at the End Points of, the Subject Trackage.

(f) Except as may otherwise be permitted by this Michigan Trackage Rights Agreement, SOO shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing cars or equipment, or the making or breaking up of trains, except as necessary for the handling of locomotives, cars or cabooses which are bad order en route, or that must be set off for safety or regulatory reasons; provided, that SOO shall use such auxiliary Subject Trackage as may be designated by NSR for such purposes.

(g) SOO may not grant trackage rights of any nature on the Subject Trackage to other parties.

(h) Notwithstanding any other provision of this Michigan Trackage Rights Agreement to the contrary, SOO may not permit or admit any third party to the use of all or any part of the Subject Trackage, nor may SOO contract or make any agreement to provide haulage over the Subject Trackage of trains, locomotives, cars or cabooses of any third party which, in the normal course of business, would not be considered as the trains, locomotives, cars or cabooses of SOO, or in any other way provide haulage service for other carriers over the Subject Trackage; provided, that this Section 3(h) shall not be construed to prohibit SOO from using the locomotives, cars and cabooses of another railroad as its own in SOO trains pursuant to a run-through agreement with any railroad, or a bona fide equipment lease.

(i) Notwithstanding any other provision of this Michigan Trackage Rights Agreement to the contrary, SOO expressly agrees that it will not, under any circumstances, use the Subject Trackage to handle finished automobiles, trucks or vehicle parts (collectively, "Automotive Traffic") destined to or originating in the Detroit-Warren-Livonia MI Metropolitan Statistical Area (2004) ("Detroit MSA"). Further, SOO specifically agrees that, should the rights granted herein be modified in any way without NSR's consent, to permit CPRC, SOO or their successors or assigns to use the Subject Trackage Rights to handle Automotive Traffic to or from the Detroit MSA, then the Michigan Trackage Rights Charge set forth in Section 5(b) shall immediately and without action of any of the Parties, be increased, for any Automotive Traffic handled via the Subject Trackage Rights, to [

].

(j) The Parties agree that rebilling of traffic in the Detroit area or the Chicago area is not a permissible method of avoiding any direct traffic limitation set forth in this Agreement.

(k) This Michigan Trackage Rights Agreement is not intended to, and shall not operate to, expand or contract any Party's existing commercial access to, or right to serve (directly or through switching), any particular shipper facility. If, following the Commencement Date of this Agreement (as defined in Section 13(a) hereof), a new facility (including a transload facility) opens, or an existing facility expands or changes ownership (in each case, a "New Facility"), SOO's commercial access or right to serve such facility shall be the same as if such New Facility had existed prior to the Commencement Date of this Agreement, and shall be neither expanded nor reduced by this Agreement.

(l) The length of SOO trains (including locomotives and other motive power units) operating on the Subject Trackage shall not exceed 8500 feet subject to compliance with operating policies applied to NSR's own trains. The maximum train length set forth in this Section 3(l) may be adjusted by the Services Standards Committee (as defined in Section 4(c)) from time to time consistent with NSR's governing operating practices and procedures.

(m) SOO's use of the Subject Trackage pursuant to this Agreement shall be subject to the following maximum volume limitations (none of which may be exceeded at any time by SOO, each of which is referred to hereinafter as a "Maximum Volume Restriction"):

(i) SOO may move no more than an average of [] trains per calendar day (measured over a calendar week [Sunday to Saturday] period) over the Subject Trackage.

(ii) SOO may move no more than [] trains over the Subject Trackage on any calendar day. In doing so, SOO trains operating on any particular calendar day need not be directionally balanced; in other words, SOO need not move the same number of trains eastbound each day as it moves westbound. SOO may move up to [] trains per calendar day in the westbound direction, or up to [] trains per calendar day in the eastbound direction; provided that the total number of SOO trains operated over the Subject Trackage on any particular calendar day does not exceed the Maximum Volume Restrictions.

(iii) If the Subject Trackage is unavailable to SOO due to a derailment, line outage or other interruption of service on the Subject Trackage, or if CPR experiences a derailment, an unintended line outage or other unintended interruption of service on its own lines connecting to, and necessary to reach, the Subject Trackage, in each case for a period of time (the "Outage Period") greater than twenty-four (24) hours, and no detour is available, then NSR shall cooperate and consult with SOO in order to address any resulting backlog of trains over a period of time (the "Resolution Period") following the resolution of such derailment, line outage or other interruption of service (including the possibility of waiving the Maximum Volume Restrictions set forth in this Section 3(m) for the Resolution Period as may be required to reduce such backlog of SOO trains); provided, however, that the Maximum Volume Restriction set forth in Section 3(m)(i) shall not be exceeded as measured over an average of the Outage Period plus the Resolution Period.

SECTION 4. SERVICE STANDARDS

(a) The Parties anticipate that, upon the commencement of SOO operations under this Michigan Trackage Rights Agreement, the expected average transit time for movement between the Detroit-area End Points and the Chicago-area End Points of the Subject Trackage (subject to the vagaries of railroad operations) will be as set forth in the schedule attached hereto as Exhibit B. Notwithstanding the foregoing, SOO hereby acknowledges that NSR makes no guarantee as to the actual transit time for any SOO train, and there shall be no penalty imposed on NSR for failure to meet the anticipated transit time set forth in this Section 4(a) over any period of time, nor shall SOO have any right to seek damages from NSR on account of such failure. The Parties agree that this Section 4(a) addresses expected average transit time and Section 9(a) addresses dispatching, which matters are separate and distinct.

(b) SOO shall provide the Service Standards Committee notice of the schedules for regularly scheduled SOO trains operating over the Subject Trackage, as well as any proposed modifications. SOO shall provide the Service Standards Committee at least seven (7) days prior written notice of such changes in SOO train schedules or frequencies, and notice as reasonably practicable in the case of train annulments and, subject to the Maximum Volume Restrictions set forth in Section 3(m), extra trains necessitated by sudden or seasonal surges in traffic volumes.

(c) NSR and SOO shall establish a Service Standards Committee consisting of appropriate operating personnel of each Party, which shall: (i) monitor, and periodically review, the performance of the Parties under this Michigan Trackage Rights Agreement, (ii) carry out such duties as may be assigned to it in this Agreement, including without limitation the prescription of protocols specifying (A) the method and length of advance notice by SOO to NSR of the End Point in Chicago, IL at which SOO wishes to enter or exit the Subject Trackage; and (B) the method and length of advance notice by SOO to NSR of train annulments and extra trains resulting from sudden or seasonal surges in traffic volumes, (iii) review, and adjust as required from time to time, schedules for trains operating on the Subject Trackage, and (iv) address any other operating issues that may arise in connection with SOO's operations hereunder. Meetings of the Service Standards Committee may be convened by either Party as required to fulfill its duties under this Agreement. The Service Standards Committee may meet by telephone or at such location as the Parties may agree.

SECTION 5. COMPENSATION

(a) Generally.

(i) SOO shall compensate NSR for the use of the Subject Trackage by paying to NSR a sum computed by multiplying (a) the Michigan Trackage Rights Charge (as defined in Section 5(b) of this Agreement) by (b) the number of cars (loaded or empty) and locomotives moved over the Subject Trackage by (c) the actual miles of the Subject Trackage over which the cars and/or locomotives are moved (which are agreed to be 253.9 miles for the Subject Trackage between Delray Tower and CP-502, and 260.8 miles for the Subject Trackage between Delray Tower and CP-509). In computing the compensation payable by SOO pursuant to this Section 5,

[]

(b) The Michigan Trackage Rights Charge.

The Michigan Trackage Rights Charge shall initially be []. Should there be a change of control of D&H involving CN, the Michigan Trackage Rights Charge will immediately, and without further action of the parties (including CN), convert to an amount equal to [].

(c) Customs Charges

(i) SOO shall pay to NSR [], as compensation for the transfer of Customs Cars between Oakwood Yard and Delray Intermodal Terminal (payment applicable in each direction) pursuant to section 2(k) (the "Customs Transfer Charge").

(ii) SOO shall pay to NSR [], as compensation for each lift of an intermodal unit on to or off of a Customs Car, or on to or off of a truck for transfer to an offsite location, pursuant to section 2(k) (the "Customs Lift Charge"); provided that if SOO enters into an arrangement with the terminal operator lifting Intermodal Units pursuant to section 2(k) under which SOO pays directly, or makes arrangements for payment directly to, such terminal operator and as a result NSR does not incur any costs for the lifting of such Intermodal Units, SOO shall not be required to pay the Customs Lift Charge to NSR.

(The Customs Transfer Charge and the Customs Lift Charge are collectively referred to as the "Customs Charges".)

(d) Adjustment of Charges

(i) The Michigan Trackage Rights Charge and the Customs Charges shall be adjusted upward or downward effective July 1 each year, beginning July 1, 2005, to compensate NSR for one hundred percent (100%) of any increase or decrease in the cost of labor and material, excluding fuel, as reflected in the Annual Indices of Charge-out Prices and Wage Rates (1977=100), Series RCR, included in "the AAR Railroad Cost Index" issued by the Association of American Railroads ("AAR"); provided, however, that the Michigan Trackage Rights Charge shall in no event be decreased to a level below [], as the case may be subject to Section 5(b), the Customs Transfer Charge shall in no event be decreased to a level below [], and the Customs Lift Charge shall in no event be decreased to a level below []. In determining the amount (if any) of the annual adjustment, the final "Material prices, wage rates and supplements combined (excluding fuel)" index for the Eastern District shall be used, and the calendar year ending December 31, 2003 shall be deemed the "Base Calendar Year."

(ii) The first annual adjustment to the Michigan Trackage Rights Charge and the Customs Charges shall be computed by calculating the percentage of increase or decrease in the final index for the calendar year ending December 31, 2004, as related to the final index for

the Base Calendar Year, and applying that percentage to the initial Michigan Trackage Rights Charge set forth in Section 5(b), the initial Customs Transfer Charge set forth in section 5(c)(i), or the initial Customs Lift Charge set forth in section 5(c)(ii), as the case may be. Subsequent annual adjustments will be computed by calculating the percentage of increase or decrease in the final index published for the calendar year immediately preceding the year in which the adjustment is to be applied, as related to the final index published for the Base Calendar Year, and applying that percentage to the initial Michigan Trackage Rights Charge set forth in Section 5(b), the initial the Customs Transfer Charge set forth in section 5(c)(i), or the initial Customs Lift Charge set forth in section 5(c)(ii), as the case may be.

By way of example with respect to the Michigan Trackage Rights Charge, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index for the Base Calendar Year; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index for the calendar year 2004; "C" to be the initial Michigan Trackage Rights Charge; and "D" to be the percentage of increase or decrease, the adjusted Michigan Trackage Rights Charge to be applied on and after July 1, 2005 would be determined by the following formula:

$$(1) \quad (B - A) / A = D$$

$$(2) \quad (C \times D) + C = \text{adjusted Michigan Trackage Rights Charge, effective July 1, 2005.}$$

(iii) If the base for the "Annual Indices of Charge-out Prices and Wage Rates" issued by the AAR is changed from the year 1977, an appropriate revision shall be made in the base (established as herein provided) for the calendar year 1977. If the AAR or any successor organization discontinues publication of the "Annual Indices of Charge-out Prices and Wage Rates," an equitable substitute for determining the annual percentage of increase or decrease shall be negotiated by the Parties. In the absence of agreement, the Parties shall submit the issue to binding arbitration in the manner prescribed in Section 14.

(iv) On or before the 15th day of each calendar month during the term of this Michigan Trackage Rights Agreement, SOO shall prepare and deliver to NSR a statement setting forth the number of cars and miles operated on the Subject Trackage pursuant to this Michigan Trackage Rights Agreement during the immediately preceding month (the "Monthly Statement"). The Monthly Statement shall be delivered to NSR's Manager Miscellaneous Billing in electronic format, and shall contain a detailed list of the cars that moved during the subject month, which list shall include, for each car, the following information: (1) car initial and number, (2) the respective End Points that the car moved between, (3) whether the car exceeded ninety-six (96) feet in length (including, without limitation, articulated cars), (4) for each car exceeding ninety-six (96) feet in length, the number of axles on such car, and (5) any other information relating to such cars that NSR may reasonably request in connection with accounting for the use of the Subject Trackage Rights. NSR shall develop and present to SOO an invoice (the "Use Invoice") computed in accordance with Section 5(a) for use of the Subject Trackage Rights covered by that Monthly Statement. SOO shall make payment to NSR within sixty (60) days after the date of such Use Invoice.

(v) On or before the 15th day of each calendar month during the term of this Michigan Trackage Rights Agreement, NSR shall develop and present to SOO an invoice (the "Customs Charge Invoice") computed in accordance with Section 5(c)(i) and (ii) for the transfer of Customs Cars between Oakwood Yard and Delray Yard and the lifting of intermodal containers during the immediately preceding calendar month. SOO shall make payment to NSR within sixty (60) days after the date of such Customs Charge Invoice.

(vi) Any dispute regarding the amount of a Monthly Statement, Use Invoice or Customs Charge Invoice shall be reconciled between the Parties, and any adjustment resulting from such reconciliation shall be reflected in a subsequent Use Invoice or Customs Charge Invoice, as the case may be. If SOO disputes any portion of an Use Invoice or a Customs Charge Invoice, it shall nevertheless pay such invoice in full (unless such dispute involves a material amount in relation to the total amount of such invoice), subject to adjustment upon resolution of the dispute; provided, however, that (i) no exception to any charge in a Use Invoice or a Customs Charge Invoice shall be honored, recognized or considered if filed after the expiration of three (3) years from the date of the Use Invoice or Customs Charge Invoice, and (ii) no invoice shall be rendered more than three (3) years (a) after the last day of the calendar month in which the expense covered thereby is incurred, or (b) in the case of charges disputed as to amount or liability, after the amount owed or liability therefor is established. Any claim for the adjustment of a Monthly Statement, Use Invoice or Customs Charge Invoice shall be deemed to be waived if not made in writing within three (3) years after the date of the relevant Monthly Statement for statement adjustments and the date of the relevant Use Invoice or Customs Charge Invoice for invoice adjustments.

(vii) SOO and NSR shall each have the right, at its own expense, to initiate an audit of the records of the other Party pertaining to the use of the Subject Trackage Rights under this Agreement, and any Monthly Statement, Use Invoice, Customs Charge Invoice or other invoice issued by SOO or NSR, respectively, pursuant to this Michigan Trackage Rights Agreement, at any time within three (3) years of the date of the relevant Use Invoice, Customs Charge Invoice or other invoice (as applicable) relating to use of the Subject Trackage Rights. All such audits shall be conducted at reasonable intervals, locations and times, and completed within a reasonable period of time. Each Party agrees that, except as permitted by Section 19 of this Agreement, all information disclosed to it or its representatives in connection with such an audit will be held in strictest confidence and will not be disclosed to any third party (other than to the arbitrators in connection with an arbitration conducted pursuant to Section 14 of this Michigan Trackage Rights Agreement or as required by applicable law). Any adjustment resulting from an audit conducted pursuant to this Section 5(d)(vii) with respect to which the Parties are in concurrence shall be reflected in a subsequent Use Invoice or Customs Charge Invoice, as the case may be.

(viii) Invoices rendered pursuant to the provisions of this Michigan Trackage Rights Agreement, other than Use Invoices, Customs Charge Invoices and charges under Section 9(i), shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals as specified by NSR at the time any work is performed by NSR for SOO, or, upon the mutual agreement of the Parties, shall include actual costs and expenses.

SECTION 6. MAINTENANCE OF SUBJECT TRACKAGE

(a) NSR shall be solely responsible for the maintenance, repair and renewal of the Subject Trackage. NSR shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, such condition not to be less than Federal Railroad Administration Class 3 (or any replacement of it), subject to normal slow orders and the like, but NSR does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. NSR shall take reasonable steps to ensure that any interruptions will be kept to a minimum and shall use its best efforts to avoid such interruptions.

(b) NSR shall, in planning program maintenance of the Subject Trackage, take into account the schedule of SOO trains on the Subject Trackage as well as NSR trains. NSR shall from time to time throughout the term of this Michigan Trackage Rights Agreement, through the Service Standards Committee, advise SOO of its schedule for planned maintenance, and any revisions to such schedule, as soon as practicable after such maintenance plan is determined or revised. NSR shall further provide the designated officer of SOO with seven (7) days prior notice (or such lesser notice period as is reasonable in the circumstances) of substantial delays or line outages on the Subject Trackage due to planned maintenance.

SECTION 7. CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

(a) Existing connections or facilities, which are jointly used by the Parties hereto under existing agreements, shall continue to be maintained, repaired and renewed by and at the expense of the party or parties responsible for such maintenance, repair and renewal under such agreements.

SECTION 8. ADDITIONS, RETIREMENTS AND ALTERATIONS

(a) NSR, from time to time and at its sole cost and expense, may make changes in, additions and betterments to, or retirements from, the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation of the Subject Trackage or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental entity having jurisdiction. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

(b) NSR shall, promptly after the Effective Date (as defined in Section 13(a) of this Agreement) construct, diligently and with all deliberate speed, the Butler Segment.

(c) SOO may request facility changes, additions and betterments to the Subject Trackage. NSR and SOO in good faith shall determine the proportion of benefit to each of them of facility changes, additions and betterments proposed by SOO and if such determination can be agreed to by NSR and SOO, each of them shall bear their proportionate cost of such facility changes, additions and betterments. If NSR, in the exercise of its best business judgment, determines that its proportionate benefit from any such facility change, addition or betterment is less than the amount of the cost thereof which SOO believes should be borne by NSR, NSR shall

nonetheless make such facility change, addition or betterment at SOO's cost and expense if requested in writing by SOO, subject to NSR approval, not to be unreasonable withheld.

SECTION 9. MANAGEMENT AND OPERATIONS

(a) NSR shall have exclusive control of the management and operation (including dispatching) of the Subject Trackage. Operation and control, including dispatching, of the Subject Trackage shall be conducted, except as provided for in separately applicable multi-railroad dispatch protocols such as those currently in place for the Chicago area, in a manner as to afford each of the Parties, and any other present or future user of the Subject Trackage (or any portion thereof) economical and efficient movement of its traffic over the line. For the purposes of dispatching, NSR's and SOO's trains of the same class shall be treated with equal priority, with the five (5) classes of trains being:

- (1) Passenger;
- (2) Priority intermodal;
- (3) Other intermodal and automotive;
- (4) Regular (unit and freight trains not scheduled to set off/pick up en route); and
- (5) Other (includes trains and equipment that must operate at restricted speeds, i.e., local, work, or other such equipment movements);

provided, that in the event of a conflict, the NSR dispatcher shall be empowered to deviate from the priorities set forth herein in order to employ best practices to efficiently move all trains.

(b) NSR shall provide SOO with read-only access to NSR's Central Traffic Control screens covering the Subject Trackage in the offices of SOO designated by SOO. NSR shall be responsible for the cost of modifying its system to the extent necessary to provide SOO access to its Central Traffic Control screens, and SOO shall be responsible for the cost of the communications link with SOO and the costs to use such link incurred in SOO's offices. Such access, and the information derived therefrom, shall be restricted to CPR operating personnel designated by the Services Standards Committee, who shall only use said access, and the information derived therefrom, to monitor SOO train movements and for no other purpose, and shall further protect the confidentiality of the information derived therefrom.

(c) SOO shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains, locomotives, cars and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. SOO shall indemnify, protect, defend, and save harmless NSR and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against all fines, penalties and liabilities imposed upon NSR or its parent corporation, subsidiaries or affiliates, or their respective directors, officers,

agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction, when attributable solely to the failure of SOO to comply with its obligations in this regard.

(d) SOO in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of NSR, and the movement of SOO's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of NSR; provided, however, that such safety rules, operating rules, other regulations and orders of the transportation officers of NSR shall not unjustly discriminate between the Parties. NSR will not make any rule or restriction applying to SOO's trains that does not apply equally to NSR's trains. SOO's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by NSR's operating rules and regulations, without the prior consent of NSR. The Service Standards Committee shall make proper accommodation for exceptions, should that be reasonable, necessary and practicable. All SOO trains shall be powered to permit operation at posted speeds.

(e) SOO shall make such arrangements with NSR as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Subject Trackage qualified for operation thereover. NSR shall provide reasonable cooperation and assistance in the qualification of SOO operating (train and engine) crews for service over the Subject Trackage as soon as the date such crews and NSR personnel are available and the notice of exemption relating to the trackage rights granted herein has been filed with the STB. SOO shall pay to NSR, upon receipt of bills therefor, any cost incurred by NSR in connection with the qualification of such employees of SOO, as well as the cost of pilots furnished by NSR, until such time as such SOO employees are deemed by the appropriate examining officer of NSR to be properly qualified for operation as herein contemplated. SOO supervisory personnel who have been qualified to operate over the Subject Trackage by an appropriate examining officer of NSR may qualify other SOO employees for operation of trains over the Subject Trackage.

(f) If any employee of SOO shall neglect, refuse or fail to abide by NSR's rules, the instructions and restrictions governing the operation on or along the Subject Trackage or the associated NSR property, such employee shall, upon written request of NSR, be promptly withheld by SOO from working on NSR's property pending the results of a formal investigation of the alleged neglect, refusal or failure. After the foregoing request is given to SOO, SOO shall promptly hold an investigation, in which all parties concerned shall participate and bear the expense for its officers, counsel, employees and witnesses. Notice of such investigation to SOO employees shall be given by SOO officers. The investigation shall be conducted in accordance with any applicable terms and conditions of schedule agreements between SOO and its employees. If the result of such investigation warrants, such employee shall, upon written request by NSR, be restricted by SOO from service on the Subject Trackage, and SOO shall release and indemnify NSR from and against any and all claims and expenses because of such withdrawal.

(g) In the event that a SOO train shall be forced to stop on the Subject Trackage, due to mechanical failure of SOO's equipment or any other cause (mechanical or otherwise) not resulting from an accident or derailment, and such train is unable to proceed, or if a SOO train fails to maintain the speed required by NSR on the Subject Trackage, or if in emergencies, bad ordered or otherwise defective cars are set out of a SOO train on the Subject Trackage, NSR shall have the option to furnish motive power or such other assistance (mechanical or otherwise) as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the Subject Trackage. SOO shall reimburse NSR for the cost of rendering any such assistance. If it becomes necessary to make repairs to or adjust or transfer the lading of such disabled or defective cars in order to move them off the Subject Trackage, NSR shall arrange for such work to be done, and SOO shall reimburse NSR for the cost thereof.

(h) Whenever SOO's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, NSR shall arrange for the provision of such service, including the repair and restoration of roadbed, the Subject Trackage and structures. The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom shall be apportioned in accordance with the provisions of Section 11 hereof. All locomotives, cars, equipment and salvage from the same so picked up and removed which is owned by or under the management and control of or used by SOO at the time of such wreck, shall be promptly delivered to it.

(i) If any cars, cabooses, or locomotives of SOO are bad ordered en route on the Subject Trackage and it is necessary that they be set out, those cars, cabooses or locomotives shall, after being repaired, be picked up by SOO. NSR may, upon request of SOO and at the expense of SOO, unless otherwise provided for in the Field and Office Manuals of the Interchange Rules of the AAR, furnish required labor and material to perform light repairs required to make such bad ordered equipment safe and lawful for movement, and billing for this work shall be at rates prescribed in, and submitted pursuant to, the Field and Office Manuals of the Interchange Rules of the AAR.

(j) SOO shall not have any claim against NSR for liability on account of loss or damage of any kind in the event the use of the Subject Trackage by SOO is interrupted or delayed at any time from any cause.

(k) NSR shall make best efforts to provide the designated officer of SOO with prompt notice of any unplanned substantial delays or line outages on the Subject Trackage, and shall promptly advise the designated officer of SOO of the resumption of normal service on the Subject Trackage.

SECTION 10. MILEAGE AND CAR HIRE

All mileage and car hire charges accruing on cars in SOO's trains on the Subject Trackage shall be assumed by SOO and reported and paid by it directly.

SECTION 11. LIABILITY

The responsibility between the Parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, arising out of, incidental to or occurring in connection with this Michigan Trackage Rights Agreement, also expressly including, without limitation, all liabilities arising after the Commencement Date hereof under FELA and environmental laws but excluding consequential damages of any Party hereto (which are always borne by the Party which sustained them) and excluding claims for exemplary and punitive damages, hereinafter referred to as "Damage," shall be apportioned as follows without regard to fault or negligence:

(a) If Damage occurs involving solely the trains, locomotives, equipment or employees of one of the Parties, then that Party shall be solely responsible for such Damage, even if caused partially or completely by another Party.

(b) If Damage occurs involving the trains, locomotives, equipment and/or employees of both NSR and SOO, then (i) NSR and SOO each shall be solely responsible for any Damage to its own employees, locomotives and equipment and those cars in its own revenue account (including lading) ("NSR Equipment" and "SOO Equipment," respectively, and collectively, the "Equipment"), and (ii) the Parties shall each be responsible for 50 percent of the Damage to the Subject Trackage and associated facilities and any Damage sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Damage.

(c) For the purposes of assigning responsibility for Damage under this Section 11 as between the Parties hereto, the employees, locomotive and equipment and those cars in the revenue account (including lading) of CPRC or its subsidiaries shall be considered to be the employees, locomotives and equipment and cars of SOO. Except for the foregoing, for the purposes of assigning responsibility for Damage under this Section 11 as between the Parties hereto, the trains of a third party or parties shall be considered to be the trains of NSR.

(d) Notwithstanding anything to the contrary in Sections 11(a), (b) and (c), above, when any damage to or destruction of the environment, including without limitation land, air, water, wildlife, and vegetation, occurs with one or more trains of the Parties involved, then, as between themselves, the Parties agree that (i) NSR shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in NSR Equipment from which there was a release, (ii) SOO shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in SOO Equipment from which there was a release, and (iii) NSR and SOO shall be responsible, in proportion to the total number of pieces of Equipment of each Party from which there was a release, for any damage or destruction to the environment and to third parties which results solely from one or more substances transported in both NSR Equipment and SOO Equipment from which there was a release.

(e) SOO and NSR each shall be responsible for the payment, handling, administration and disposition of all Damage for which it bears exclusive responsibility under this Section 11, and SOO and NSR shall have joint responsibility for the payment, handling, administration and

disposition of all Damage for which they are jointly responsible under this Section 11. In assigning joint responsibility to both NSR and SOO, it is not intended that NSR and SOO will, in all instances, actually act jointly, but rather that they will agree between themselves on the most practical and efficient arrangement for handling, administering, and disposing of Damage for which they bear joint responsibility, with the objective of eliminating unnecessary duplication of effort and minimizing overall costs.

(f) Each Party covenants and agrees (i) to indemnify and save harmless the other Party from and against any payments which are the responsibility of such Party under this Michigan Trackage Rights Agreement, and all expenses, including attorney's fees and expenses, and any other expenses of any court or regulatory proceeding, incurred by the indemnified Party in defending any claim for which the responsible Party is liable, and (ii) to defend such indemnified Party against such claims with counsel selected by the responsible Party and reasonably acceptable to the indemnified Party.

(g) Notwithstanding anything to the contrary in this Section 11, whenever Damage occurs with one or more trains being involved, and one or more of the involved trains is a SOO train, and such Damage is attributable solely to the gross negligence or willful or wanton misconduct of only one of the Parties to this Agreement, and such gross negligence or willful or wanton misconduct is the direct or proximate cause of such Damage, then the Party to which such gross negligence or willful or wanton misconduct is attributable shall assume all liability, cost and expense in connection with such Damage. The Parties agree that, for purposes of this Section 11(g), "gross negligence or willful or wanton misconduct" shall be defined as "the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness."

(h) Notwithstanding any provision of this Section 11 to the contrary, each Party shall assume and bear all responsibility for any Damage caused by acts or omissions of any of its employees while under the influence of drugs or alcohol.

(i) If any suit or action shall be brought against either Party for Damage which under the provisions of this Michigan Trackage Rights Agreement is in whole or in part the responsibility of the other Party, said other Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay a proportionate part of the judgment and costs, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.

(j) For purposes of determining liability under this Section 11, pilots furnished by NSR to SOO pursuant to this Michigan Trackage Rights Agreement shall be considered to be the employees of SOO while such pilots are on board or getting on or off SOO trains.

(k) Notwithstanding any provision of this Michigan Trackage Rights Agreement to the contrary, for the purpose of this Section 11, the word "Equipment" shall mean and be confined to (i) cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Subject Trackage, and

(iii) vehicles and machinery that, at the time of an occurrence, are on the Subject Trackage or its right of way for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

SECTION 12. CLAIMS

(a) The Parties shall agree between themselves on the most fair, practical and efficient arrangements for handling and administering freight loss and damage claims with the intent that (i) each Party shall be responsible for losses occurring to lading in its possession for the account of such Party and (ii) the Parties shall follow applicable AAR rules and formulas in providing for the allocation of losses which are either of undetermined origin or in cars handled in interline service by or for the account of the Parties.

(b) Each of SOO and NSR shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives (or, as to SOO, the employees or the collective bargaining representatives of CPRC or its subsidiaries), either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that SOO and NSR each shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees (or, as to SOO, the employees of CPRC or its subsidiaries) arising under its collective bargaining agreements with its employees (or, as to SOO, the employees of CPRC or its subsidiaries).

SECTION 13. TERM, DEFAULT AND TERMINATION

(a) This Michigan Trackage Rights Agreement shall become effective (the "Effective Date") as of the first date executed by all of the Parties. However, SOO operations over the Subject Trackage shall not commence until a date (the "Commencement Date") mutually agreed in writing between SOO and NSR, which date shall not occur until the later of the following three dates: (i) the date upon which construction of the Butler Segment is completed; (ii) the effective date of any required U.S. Surface Transportation Board ("STB") authorization or exemption of the trackage rights granted to SOO herein (including compliance with any condition(s) imposed by the STB in connection with such approval or exemption) and (iii) the expiration of any required labor notices.

(b) This Michigan Trackage Rights Agreement shall remain in full force and effect until mutually terminated by the Parties. The Initial Term of this Agreement shall be twenty-five (25) years from the Commencement Date, and shall be renewable continuously thereafter for additional periods of ten (10) years ("Additional Term(s)"). At the end of the Initial Term, SOO may, at its option, (i) extend this Agreement under the same terms and conditions for one Additional Term, or (ii) require renegotiation of the Agreement. At the end of the first (and any subsequent) Additional Term, either NSR or SOO may extend the Agreement under the then-current terms and conditions, or require renegotiation of the Agreement. In either case, the notice to continue the then-current terms and conditions or to require renegotiation shall be given by

SOO or NSR, as the case may be, by giving the other Party advance written notice at least six (6) months prior to the expiration of the then-current term. If the Parties cannot agree upon the terms and conditions upon which the trackage rights granted herein may be exercised by SOO during such Additional Term, either Party may submit any open provisions to binding arbitration pursuant to Section 14. The arbitrators shall be instructed to take into consideration the relative economic positions of the Parties under this Agreement, and the intent of the Parties, in each case at the time this Agreement was executed, as well as any significant operating, economic and/or technological changes that have occurred in the interim. The effective date for the new terms and conditions, whether reached by negotiation or arbitration, shall be the initiation of said Additional Term. In the event that railroad operations, technology or other events create, in the view of one Party to this Agreement, a disparity such that the terms and conditions of this Agreement over time no longer reflect the intention of the Parties in a substantial and material way, and such disparity has a material and substantial adverse effect on said Party, that Party may give notice of such to the other Party, who shall negotiate in good faith modification of this Agreement in order to address and possibly remove said perceived disparity. Should the Parties fail to reach agreement with regard to such perceived disparity, the concerned Party may invoke mediation or other methods of non-binding alternative dispute resolution, in which the other Party agrees to participate in good faith.

(c) SOO shall have the right to terminate this Michigan Trackage Rights Agreement upon giving NSR at least thirty (30) days prior written notice of such termination. Such termination shall be considered to be a termination of both this Michigan Trackage Rights Agreement and the underlying right of movement.

(d) Termination of this Michigan Trackage Rights Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Michigan Trackage Rights Agreement prior to termination thereof.

(e) In the event of any substantial failure on the part of any Party to perform its obligations provided under the terms of this Michigan Trackage Rights Agreement and its continuance in such default for a period of sixty (60) days after written notice thereof by certified mail from the other Party, the non-defaulting Party shall have the right at its option, after first giving thirty (30) days written notice thereof by certified mail, and notwithstanding any waiver by such Party of any prior breach thereof, to refer such matter to arbitration pursuant to Section 14 and seek damages and/or specific performance of the terms of this Agreement from the defaulting Party. In the case of a substantial default by SOO which continues after adjudication of such default through arbitration, NSR may terminate this Michigan Trackage Rights Agreement and the underlying right of movement if SOO fails to cure such substantial default within: (i) thirty (30) days of the receipt of notice of continued default in the case of such a default in an obligation to pay NSR of SOO, (ii) fourteen (14) days of the receipt of notice of continued default in the case of such a default under Section 3(b), (c), (d), (g) or (h); and (iii) ninety (90) days of the receipt notice of continued default in the case of any other such default under this Michigan Trackage Rights Agreement. For clarity, the Parties agree that where SOO is moving Automotive Traffic where the rights granted herein were modified without the consent of NSR, the provisions of Section 3(i) shall apply.

SECTION 14. ARBITRATION

(a) Any dispute arising between the Parties with respect to this Michigan Trackage Rights Agreement shall be referred to their respective senior operating officers for resolution. In the event such officers are unable to resolve the dispute, either Party may submit the dispute for binding arbitration by three independent arbitrators before the American Arbitration Association under the Commercial Arbitration Rules. The decision of the arbitrators shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrators, if any, shall be borne by the Parties, with SOO paying fifty (50) percent and NSR paying fifty (50) percent. The arbitrators shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the award of the arbitrators, there shall be no interruption in the transaction of business under this Michigan Trackage Rights Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the arbitrators.

SECTION 15. ABANDONMENT

(a) NSR shall have the right, subject to securing any necessary regulatory approval or exemption, to abandon the Subject Trackage or any portion thereof (the "Abandonment Segment") during the Initial Term, or any Additional Term, of this Michigan Trackage Rights Agreement. NSR shall provide SOO no less than ninety (90) days prior notice of its intention to seek to abandon any Abandonment Segment.

(b) If NSR elects to abandon the Subject Trackage (or any portion thereof) pursuant to Section 15(a), this Michigan Trackage Rights Agreement shall continue to apply in all respects to any remaining portion of the Subject Trackage not abandoned by NSR. Upon request, SOO shall promptly prepare and, on or after the date that NSR has filed its own application or petition with respect to said abandonment, file any required application or petition to obtain regulatory authorization or exemption for the discontinuance of SOO's trackage rights over the relevant Abandonment Segment.

(c) NSR shall, not less than 90 days prior to any submission to the Surface Transportation Board (or successor agency having jurisdiction over said abandonment) of an application or exemption for authority to abandon an Abandonment Segment(s), offer SOO the first right to purchase such Abandonment Segment(s) for the fair market value of such Abandonment Segment(s) at the time of purchase, and on such other terms and conditions as are customary with respect to line sales by NSR at the time. SOO shall have sixty (60) days ("Abandonment Notice Period") within which to advise NSR that it will exercise its right to purchase ("Exercise Notice"). If the Parties are unable to agree upon the fair market value of the Abandonment Segment(s) that SOO wishes to purchase, either Party may refer the issue to arbitration pursuant to Section 14, which arbitration shall determine all other issues relating to terms and conditions for the sale not then (at the time of the initiation of the arbitration) agreed to by the Parties. Such arbitration shall be conducted on an expedited basis, with selection of the

arbitrators within forty-five (45) days of the initiation of arbitration, all submissions to be made by the Parties within ninety (90) days of the initiation of arbitration, and a decision to be rendered within thirty (30) days following the final submissions of the Parties.

(d) The Parties shall consummate the sale contemplated by this Section 15 within forty-five (45) days of the latest of: (a) the rendering of an arbitration decision, should issues related to the sale proceed to arbitration; (b) the execution of a purchase and sale agreement, should the Parties execute the same; and (c) the grant of authority, or exemption from the need to obtain a grant of authority, from any regulatory body having jurisdiction over the same.

(e) If SOO elects not to purchase the Abandonment Segment, it shall so advise NSR within the same sixty (60) day Abandonment Notice Period by delivering to NSR a notice of waiver of right to purchase said segment ("Waiver Notice"). Failure of SOO to provide NSR with either an Exercise Notice or a Waiver Notice within the aforesaid sixty (60) day period shall constitute a Waiver Notice.

(i) In the event of a Waiver Notice, SOO shall promptly file such application, petition or exemption notice as may then be required to obtain regulatory authority or exemption for the discontinuance of its trackage rights over the Abandonment Segment.

(ii) A Waiver Notice shall constitute a waiver by SOO of its statutory rights, if any at the time of the abandonment, to purchase or otherwise subsidize operations over the Abandonment Segment pursuant to an offer of financial assistance or other applicable method.

SECTION 16. SUCCESSORS AND ASSIGNS

(a) This Michigan Trackage Rights Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

(b) Except as provided in Section 16(c), SOO may not assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of NSR, which consent NSR may withhold at its discretion. In the event of such an assignment appropriate amendments shall be made to section 11(c).

(c) In the event of a sale or lease of substantially all of the assets or business of SOO, or the merger or consolidation of SOO into a firm or corporation not controlled by CPRC, SOO may: (i) assign this Agreement to CPRC or a US-based subsidiary of CPRC, in which case the party acquiring control over the assets or business of SOO may not move traffic pursuant to this Agreement, or (ii) if SOO remains a subsidiary of CPRC after the sale of substantially all of its assets or business, SOO may continue to enjoy the benefit of this Agreement, but the party acquiring control over the assets or business of SOO may no longer move traffic pursuant to this Agreement. On the happening of either of the foregoing events appropriate amendments shall be made to section 11(c).

SECTION 17. NOTICE

Any notice required or permitted to be given by one Party to another under this Michigan Trackage Rights Agreement shall be deemed given on the date sent by certified mail, or by such other means as the Parties may agree, and shall be addressed as follows:

If to SOO: General Manager – Interline Management
Canadian Pacific Railway Company
Gulf Canada Square
401 9th Avenue SW
Calgary, Alberta, Canada T2P 4Z4

with a copy to:

Manager Interline Agreement Management
Canadian Pacific Railway Company
Gulf Canada Square
401 9th Avenue SW
Calgary, Alberta, Canada T2P 4Z4

If to Norfolk Southern: Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191

with a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
185 Spring Street, SW, Box 158
Atlanta, Georgia 30303

Either Party may provide changes in the above addresses to the other Parties by personal service or certified mail.

SECTION 18. FORCE MAJEURE

The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure (including strikes, riots, floods, accidents, Acts of God, acts of terrorism, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs either Party's ability to fulfill its obligations to the other Party under this Michigan Trackage Rights Agreement, said Party shall take all reasonable measures,

including providing routing over alternate rail lines to the extent practicable (subject to reimbursement for incremental costs), and granting the right to enter and exit the Subject Trackage at locations other than the End Points in case of a necessary detour, to restore performance of its obligations in a timely manner.

SECTION 19. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Michigan Trackage Rights Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Michigan Trackage Rights Agreement, during the Initial Term and any Additional Terms, the terms and provisions of this Michigan Trackage Rights Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential, and will not be disclosed by any Party to any person other than such Party's officers, employees, and attorneys without the prior written approval of the other Party.

SECTION 20. INDEMNITY COVERAGE

(a) As part of the consideration hereof, each Party hereby agrees that each and all of its indemnity commitments in this Michigan Trackage Rights Agreement in favor of the other Party shall also extend to and indemnify the parent corporation, subsidiaries and affiliates of such other Party, and all of its directors, officers, agents and employees.

SECTION 21. REGULATORY APPROVAL

(a) Upon execution of this Michigan Trackage Rights Agreement by each of the Parties hereto, SOO shall promptly file with the STB, and diligently prosecute, an appropriate notice of exemption with respect to the trackage rights granted to it herein.

SECTION 22. GENERAL PROVISIONS

(a) This Michigan Trackage Rights Agreement and each and every provision hereof are for the exclusive benefit of the Parties hereto and not for the benefit of any other person. Nothing herein contained shall be taken as creating or increasing any right of any other person to recover by way of damages or otherwise against any of the Parties hereto.

(b) This Michigan Trackage Rights Agreement contains the entire understanding of the Parties hereto with respect to its subject matter and supersedes any and all other agreements and understandings between the Parties.

(c) No term or provision of this Michigan Trackage Rights Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by both of the Parties.

(d) Each definition in this Michigan Trackage Rights Agreement includes the singular and the plural, and references in this Michigan Trackage Rights Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or

contract mean such agreement or contract as amended. As used in this Michigan Trackage Rights Agreement, the word "including" means "without limitation", and the words "herein", "hereof" and "hereunder" refer to this Michigan Trackage Rights Agreement as a whole. All dollar amounts stated herein are in United States currency.

(e) All words, terms and phrases used in this Michigan Trackage Rights Agreement shall be construed in accordance with the generally applicable definition or meaning of such words terms and phrases in the railroad industry.

(f) The division of this Michigan Trackage Rights Agreement into sections and subsections, and the insertion of headings and references, are for convenience of reference only, and shall not affect the construction or interpretation of this Michigan Trackage Rights Agreement. Unless the context otherwise requires, all references herein to sections are to sections in this Michigan Trackage Rights Agreement.

(g) As used in this Michigan Trackage Rights Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties hereto, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the Parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or moving in the trains of such Party. Whenever such locomotives, cars or equipment are owned or leased by one Party, but are in the possession of, or are being operated in a train of the other Party, such locomotives, cars and equipment shall be considered those of that other Party in whose possession or train such locomotives, cars and equipment are located.

(h) This Michigan Trackage Rights Agreement is the product of mutual negotiations of the Parties hereto, none of whom shall be considered the drafter for purposes of contract construction.

(i) No consent or waiver, expressed or implied, by a Party of any breach or default by the other Party in the performance by such other Party of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance hereunder by such other Party. Failure on the part of a Party to complain of any act or failure of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

(j) If any provision of this Michigan Trackage Rights Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Michigan Trackage Rights Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner which

(m) This Michigan Trackage Rights Agreement may be executed in several counterparts, each of which will be deemed an original, and such counterparts shall constitute one and the same instrument.

(n) If the STB, in approving or exempting (if so required) the transaction contemplated by this Agreement, imposes any condition (other than standard labor protective conditions) which would in the sole judgment of NSR or SOO, materially reduce the benefits to that Party from the same, then the materially affected Party may, in its sole discretion: (a) accept the condition and proceed with the transaction contemplated by this Agreement; (b) terminate this Agreement, or (c) appeal such condition judicially and postpone the Commencement Date for up to thirty (30) months until final action on its appeal; and if such appeal is unsuccessful, either (i) reject the condition and terminate this Agreement, or (ii) accept the condition and proceed with the transaction contemplated by this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Michigan Trackage Rights Agreement to be duly executed as of the date first above written.

WITNESS:

SOO LINE RAILROAD
COMPANY

D. Welsh
Title *Ex. Dir. Network Development*

By: *[Signature]*

WITNESS:

NORFOLK SOUTHERN RAILWAY
COMPANY

Title

By: _____

produces a result which is substantially equivalent to the terms of this Michigan Trackage Rights Agreement in all material respects.

(k) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between NSR and SOO.

(l) This Michigan Trackage Rights Agreement shall be governed and interpreted in accordance with the laws of the State of New York, without regard to application of the choice of law principles thereof.

(m) This Michigan Trackage Rights Agreement may be executed in several counterparts, each of which will be deemed an original, and such counterparts shall constitute one and the same instrument.

(n) If the STB, in approving or exempting (if so required) the transaction contemplated by this Agreement, imposes any condition (other than standard labor protective conditions) which would in the sole judgment of NSR or SOO, materially reduce the benefits to that Party from the same, then the materially affected Party may, in its sole discretion: (a) accept the condition and proceed with the transaction contemplated by this Agreement; (b) terminate this Agreement, or (c) appeal such condition judicially and postpone the Commencement Date for up to thirty (30) months until final action on its appeal; and if such appeal is unsuccessful, either (i) reject the condition and terminate this Agreement, or (ii) accept the condition and proceed with the transaction contemplated by this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Michigan Trackage Rights Agreement to be duly executed as of the date first above written.

WITNESS:

SOO LINE RAILROAD
COMPANY

Title

By: _____

WITNESS:

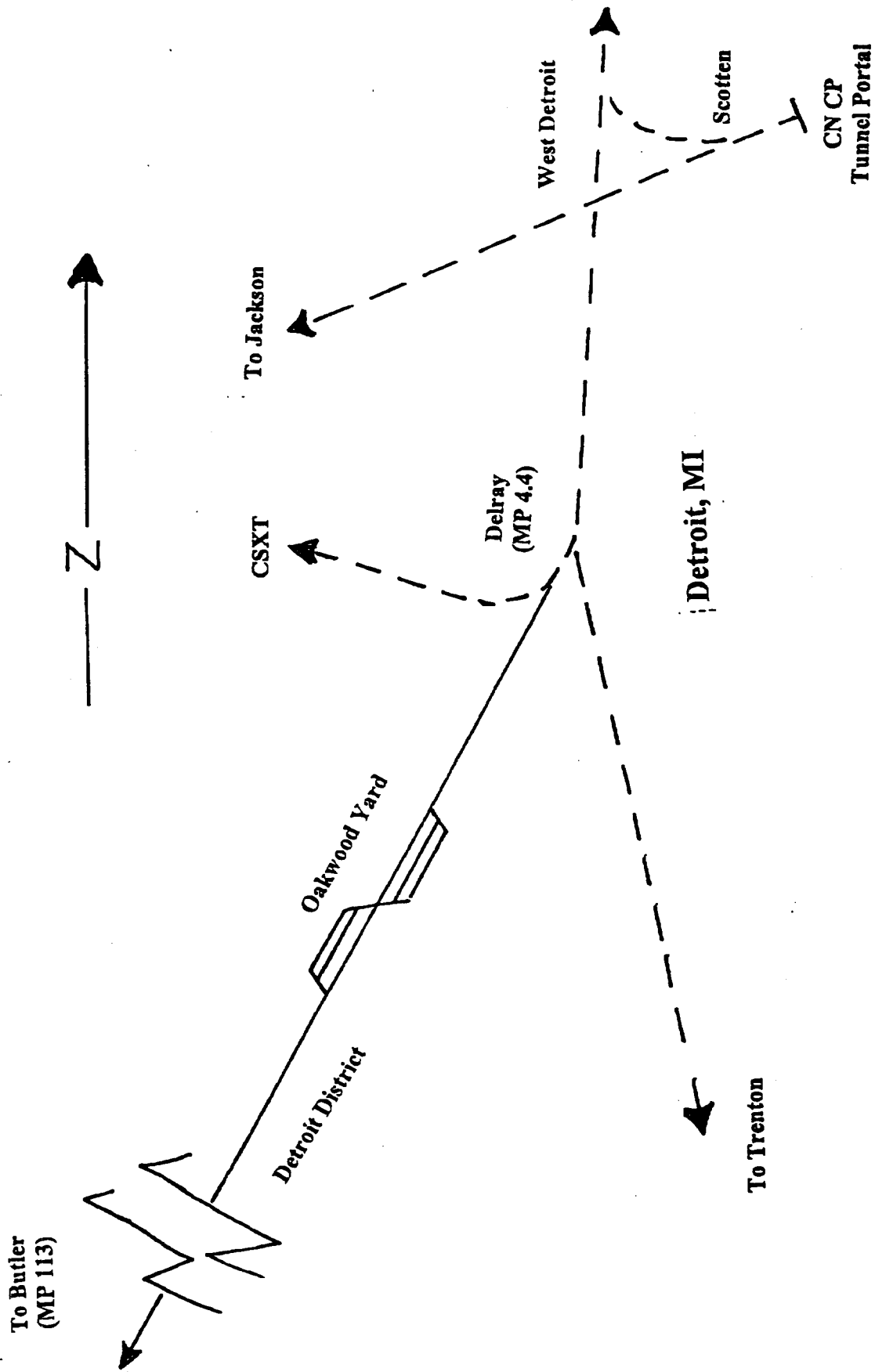
NORFOLK SOUTHERN RAILWAY
COMPANY

Title

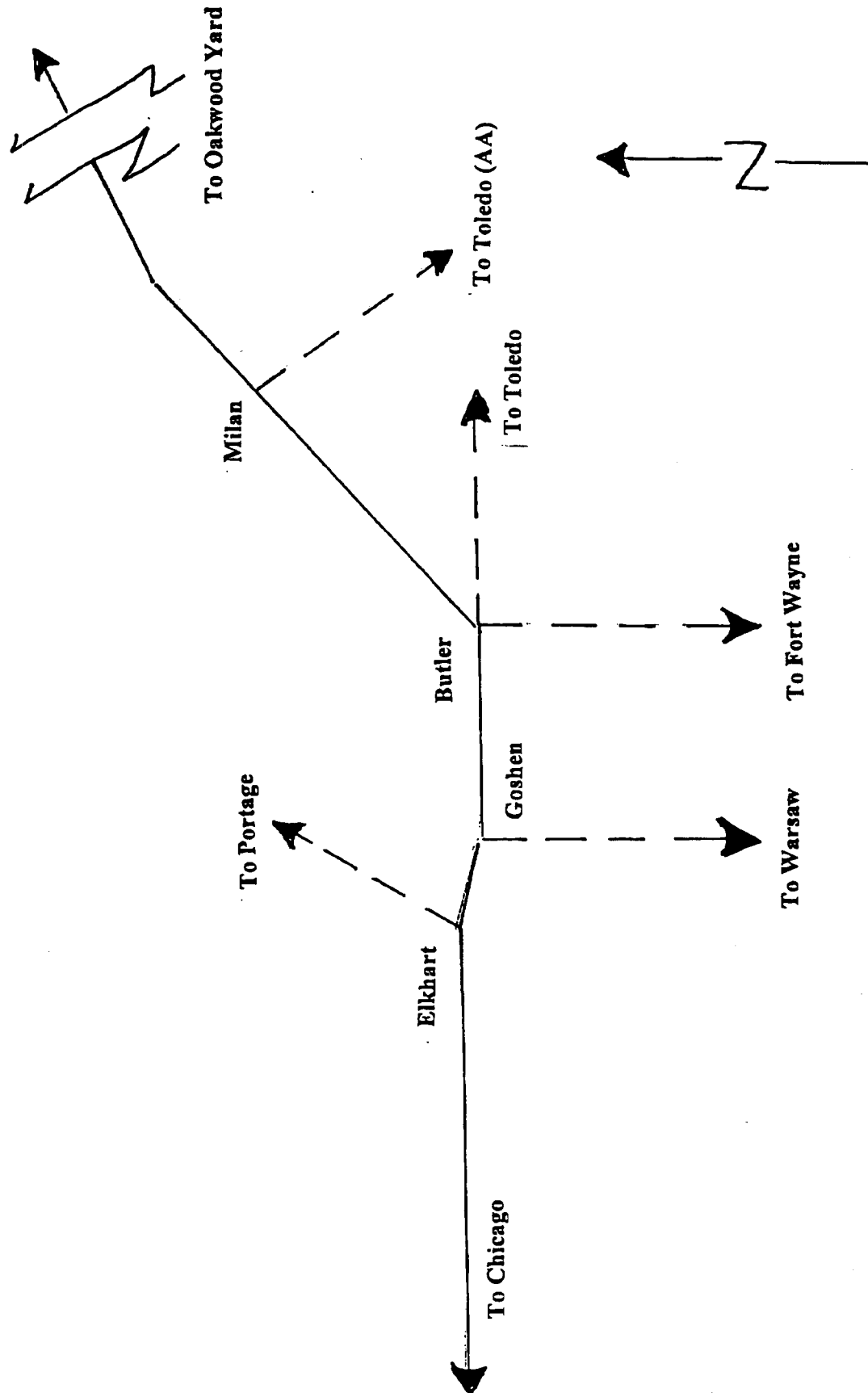
By: C. W. Moore

EXHIBIT A
ROUTE OF SUBJECT TRACKAGE

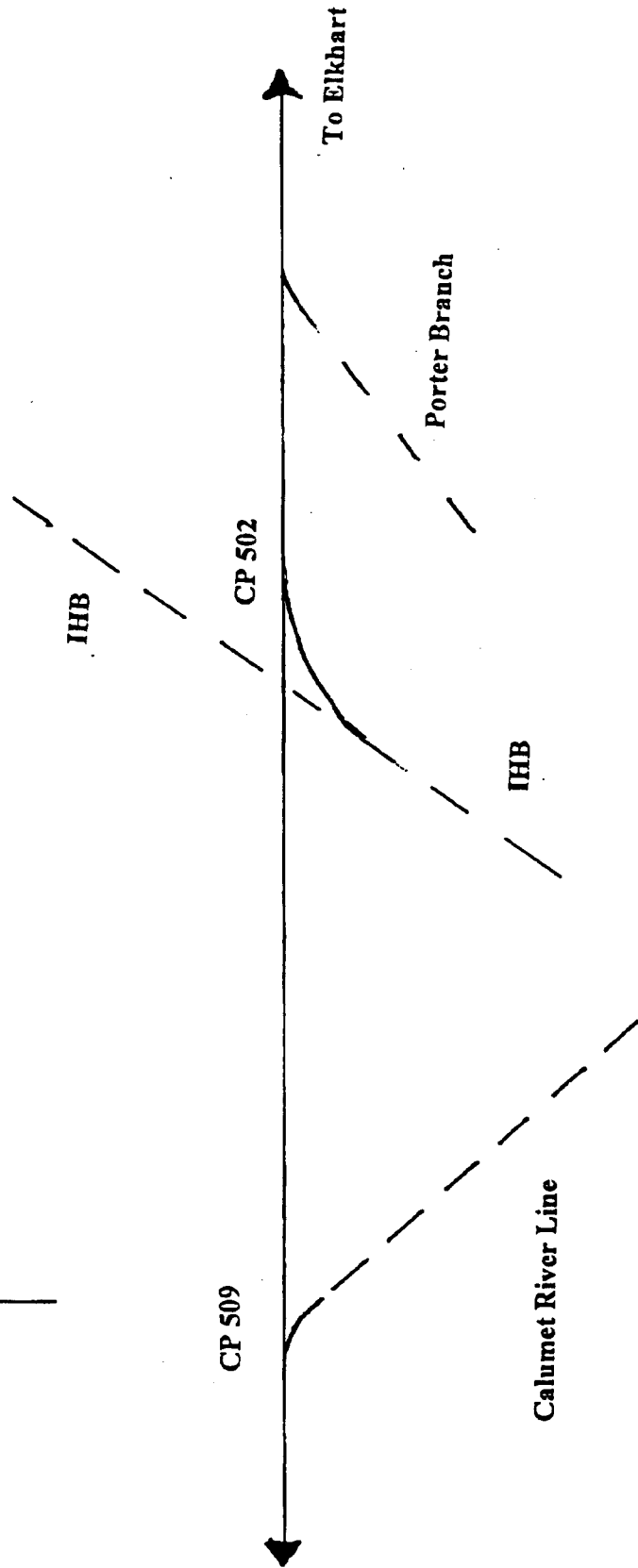
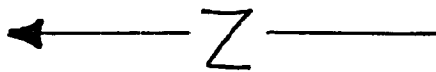
**CPRS Trackage Rights over NSR
Detroit, Michigan - Chicago, Illinois**



**CPRS Trackage Rights over NSR
Detroit, Michigan - Chicago, Illinois**



**CPRS Trackage Rights over NSR
Detroit, Michigan - Chicago, Illinois**



Chicago, IL

EXHIBIT B
ANTICIPATED TRANSIT TIMES

Addendum A

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EXHIBIT 3

Exhibit 3

SURFACE TRANSPORTATION BOARD

Notice of Exemption

Finance Docket No. 34709

Soo Line Railroad Company – Trackage Rights Exemption – Norfolk Southern Railway Company

Norfolk Southern Railway Company ("NSR") has agreed to grant overhead trackage rights to Soo Line Railroad Company ("SOO") to permit Soo Line to operate over the following NSR lines between Delray Interlocking in Detroit, Michigan, on the one hand, and certain points in Chicago, Illinois, on the other hand:

1. between Delray Interlocking in Detroit, MI at Milepost 4.4 + of the Detroit District ("Delray Tower"), on the one hand, and the point of connection of the new 1982 foot (0.37 mile) long Butler Connecting Track at Milepost D113.65 + of NSR's Huntingdon District Line, on the other hand; and
2. between the point of connection of the Butler Connecting Track at Milepost D113.65 ± of NSR's Huntingdon District Line and the point of connection of the Butler Connecting Track with NSR's Chicago Line at Milepost CD358.56 ± ; and
3. between the point of connection of the Butler Connecting Track with NSR's Chicago Line at Milepost CD358.56 ± , on the one hand, and one of the following two points in Chicago, IL, on the other hand: (i) CP-502 at Milepost 502.8± and (ii) CP 509 at Milepost 509.7± , a total distance of 253.9 miles (in the case of CP-502) and 260.8 miles (in the case of CP-509).

The three segments are non-separable portions of a single unified route over which the subject trackage rights are granted. It shall be determined on a train-by-train basis whether SOO trains operate over the route via CP-502 or via CP-509, pursuant to the procedures and protocols set forth in the parties' agreement (attached hereto as Exhibit 2).

The trackage rights will be effective on a date mutually agreed in writing between SOO and NSR, which shall not occur until the latest of (i) the date upon which construction of the Butler Connecting Track is completed; (ii) the effective date of any required Board authorization or exemption of the trackage rights granted to SOO herein (including compliance with any condition(s) imposed by the STB in connection with this Notice) and (iii) the expiration of any required labor notices.

This notice is filed under Section 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board

Vernon A. Williams,
Secretary